

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

COUNTRY INNS & SUITES BY CARLSON, INC.,	:	
	:	
Plaintiff,	:	CASE NO.: 1:08-cv-0624-SEB-DML
	:	
v.	:	ENTRY GRANTING PLAINTIFF'S
	:	MOTION FOR SUMMARY
NAYAN, LLC and RAVINDRA PATEL,	:	JUDGMENT WITH RESPECT TO
	:	RAVINDRA PATEL
Defendants.	:	
	:	

Plaintiff has moved for summary judgment on all claims in this action. In response to Plaintiff's motion, Defendants state simply that Defendant Nayan, LLC has filed for bankruptcy and, due to the automatic bankruptcy stay, this Court can take no further action with respect to Defendant Nayan LLC. The Court, having considered Plaintiff's Motion and Defendants' non-substantive response, which mentions nothing about Defendant Ravindra Patel, now, pursuant to Fed. R. Civ. P. 54(b), finds that there is no just reason for delay and GRANTS summary judgment in favor of Plaintiff Country Inns & Suites By Carlson, Inc. ("Country") and against Defendant Ravindra Patel for the reasons stated below.

Defendant Nayan, LLC entered into a License Agreement with Country on December 19, 2003, for the operation of a Country Inn & Suites By Carlson® system hotel. That Agreement extended for a fifteen-year term. Defendant Ravindra Patel personally guaranteed Nayan's performance of the License Agreement. Defendants breached the License Agreement by failing to pay the fees owed to Country. As a result of that breach, Country terminated Defendants' franchise rights effective April 18, 2008, with more than ten years remaining on the License

Agreement's term. There is no genuine dispute as to Defendants' breach of the License Agreement or the amounts owed to Country thereunder.

Defendants have failed to pay Country \$157,073.89 in past due fees that accrued under the License Agreement prior to April 18, 2008. Pursuant to Article 17.4 of the License Agreement, Defendants must also pay liquidated damages equal to three times the Royalty and Marketing Fees payable to Country for the twelve months immediately preceding the termination of the License Agreement. The revenue information reported by Defendants' hotel shows the amount of liquidated damages owed to Country to be \$230,221.69. The liquidated damages provision set forth in Article 17.4 is reasonable under Indiana law. At the time the parties executed the License Agreement, the damages that Country would incur due to Defendants' premature breach of the License Agreement were uncertain and difficult to ascertain. The liquidated damages formula selected by the parties results in a measure of damages that is not grossly disproportionate to the amount of Country's actual loss.

In addition, pursuant to Article 5.8 of the License Agreement, Defendants agreed that payments due under the License Agreement would bear interest at the lesser of one and one-half percent per month or the maximum rate of interest permitted by law. Finally, Country is entitled to recover the reasonable attorneys' fees and costs it has incurred in connection with this matter, pursuant to Article 25.13 of the License Agreement.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that there is no genuine issue of material fact and no just reason for delay. In light of the automatic bankruptcy stay applicable to Nayan, LLC, summary judgment is, GRANTED in favor of Plaintiff and against Defendant Ravindra Patel only in the amount of Three Hundred Eighty-Seven Thousand Two Hundred Ninety-five Dollars and Fifty-eight Cents (\$387,295.58), plus interest accruing at

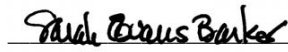
a rate of 18% percent per year from April 18, 2008 to the date hereof, plus reasonable attorneys' fees and costs incurred by Plaintiff.

The claims in this action against Defendant Nayan, LLC, though stayed, remain pending.

Plaintiff is directed to submit evidence of the amount of its attorneys' fees and costs to the Court within fourteen (14) days of the date of this Order.

IT IS SO ORDERED.

Dated: 06/09/2009


SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

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